

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 05-cv-10352

Maria Walsh, Jr.

v.

Paul F. Walsh, Jr.

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 11/30/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 16, 2005.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 12/19/05.



Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-10352-RCL**

Alves v. Walsh et al
Assigned to: Judge Reginald C. Lindsay
Cause: 42:1983 Civil Rights Act

Date Filed: 02/23/2005
Jury Demand: Both
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Maria Alves**

represented by **Brian J. Sullivan**
10 Purchase Street
Fifth Floor
Fall River, MA 02720
508-679-7998
Fax: 508-674-3610
Email: attbjs@earthlink.net
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.


Defendant

Paul F. Walsh, Jr.
*District Attorney for Bristol County,
Massachusetts*

represented by **William R. Connolly**
Office of Bristol County District
Attorney
888 Purchase Street
New Bedford, MA 02740-6260
508-997-0711
Fax: 508-997-1751
Email: william.r.connolly@state.ma.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED


Defendant**The City of Fall River**

represented by **Daniel S. Hendrie**
Assistant Corporation Counsel
One Government Center
Fall River, MA 02722
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/23/2005	 1	COMPLAINT and Demand for Jury Trial against Paul F. Walsh, Jr, The

		City of Fall River Filing fee: \$ 250, receipt number 62305, filed by Maria Alves. (Attachments: # <u>1</u> Civil Cover Sheet)(Stanhope, Don) (Entered: 02/24/2005)
02/23/2005	●	Summons Issued as to Paul F. Walsh, Jr, The City of Fall River. (Stanhope, Don) (Entered: 02/24/2005)
02/23/2005	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to the New Magistrate Judge. (Stanhope, Don) (Entered: 02/24/2005)
03/21/2005	● <u>2</u>	Assented to MOTION to Enlarge Time to File Answer filed by Paul F. Walsh, Jr.(Stanhope, Don) (Entered: 03/22/2005)
03/22/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>2</u> Assented to Motion to Enlarge Time Paul F. Walsh, Jr answer due 4/20/2005. (Stanhope, Don) (Entered: 03/22/2005)
03/22/2005	● <u>3</u>	STIPULATION to Extend Time to Answer filed by Maria Alves, The City of Fall River. (Stanhope, Don) (Entered: 03/25/2005)
03/29/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered. Granting <u>3</u> Stipulation to Extend time to Answer. filed by Maria Alves,, The City of Fall River, (Stanhope, Don) (Entered: 03/29/2005)
04/11/2005	● <u>4</u>	ANSWER to Complaint with Jury Demand filed by The City of Fall River.(Stanhope, Don) (Entered: 04/12/2005)
04/18/2005	● <u>5</u>	MOTION to Dismiss filed by Paul F. Walsh, Jr.(Stanhope, Don) (Entered: 04/19/2005)
04/18/2005	● <u>6</u>	MEMORANDUM of Law in Support of <u>5</u> MOTION to Dismiss filed by Paul F. Walsh, Jr. (Stanhope, Don) (Entered: 04/19/2005)
04/29/2005	● <u>7</u>	Judge Reginald C. Lindsay : ORDER entered. ORDER entered returning Interrogatories to Plaintiff to Daniel S. Hendrie(Stanhope, Don) (Entered: 04/29/2005)
05/04/2005	● <u>8</u>	Opposition and Memorandum of Law re <u>5</u> MOTION to Dismiss filed by Maria Alves. (Abaid, Kim) (Entered: 05/05/2005)
05/04/2005	● <u>9</u>	AFFIDAVIT in Support re <u>8</u> Opposition to Motion to Dismiss. (Abaid, Kim) (Entered: 05/05/2005)
05/04/2005	● <u>10</u>	MOTION for Extension of Time to May 4, 2005 to File an Opposition by Maria Alves.(Abaid, Kim) (Entered: 05/05/2005)
05/05/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>10</u> Motion for Extension of Time to file opposition (Hourihan, Lisa) (Entered: 05/05/2005)
06/24/2005	● <u>11</u>	SUMMONS Returned Executed Paul F. Walsh, Jr served on 2/23/2005, answer due 3/15/2005. (Abaid, Kim) (Entered: 06/27/2005)
06/24/2005	● <u>12</u>	SUMMONS Returned Executed Thomas F. McGuire, Jr. Corporation

		Council of The City of Fall River served on 2/23/2005, answer due 3/15/2005. (Abaid, Kim) (Entered: 06/27/2005)
06/24/2005	<u>13</u>	SUMMONS Returned Executed Edward Lambert, Mayor of the City of Fall River. (Abaid, Kim) (Entered: 06/27/2005)
08/18/2005	<u>14</u>	NOTICE of Hearing on Motion <u>5</u> MOTION to Dismiss: Motion Hearing set for 9/19/2005 03:00 PM in Courtroom 11 before Judge Reginald C. Lindsay. Be advised, however, that this hearing date is subject to cancellation on forty-eight hours' notice if the court determines for any reason that the hearing will be unnecessary.(Hourihan, Lisa) (Entered: 08/18/2005)
09/02/2005	<u>14</u>	Assented to MOTION to Continue Hearing on defendant's Motion to Dismiss to 10/17/05 by Maria Alves, Paul F. Walsh, Jr, The City of Fall River.(York, Steve) (Entered: 09/02/2005)
09/08/2005	<u>14</u>	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>14</u> Motion to Continue Motion Hearing. No new date will be set, the court will decide the motion on the papers submitted. (Hourihan, Lisa) (Entered: 09/08/2005)
10/25/2005	<u>14</u>	Judge Reginald C. Lindsay : ElectronicORDER entered granting <u>5</u> Motion to Dismiss. Count I of the complaint is dismissed as to the City of Fall River for failure to state a claim upon which relief can be granted. As to the remaining defendant, the complaint states that it is brought against District Attorney Walsh "in his capacity as the District Attorney for Bristol County." As such, it is deemed to be a suit against the County itself. A local government, however, may only be sued under 42 U.S.C. s.1983 if the execution of a policy or custom of the local government causes a constitutional injury. Monell v. Dept. of Social Services, 436 U.S. 658, 694 (1978). The complaint fails to allege a constitutional injury flowing from the execution of a policy or custom of Bristol County. If the complaint against the District Attorney is deemed to be a complaint against him in his personal capacity, the complaint fails because, in seeking a forfeiture of personal property in connection with a criminal proceeding, District Attorney Walsh, enjoys absolute immunity. Mendenhall v. Goldsmith, 59 F.3d 685, 689 (7th Cir. 1995); Schrob v. Catterson, 948 1402, 1411 (3d. Cir. 1991). Accordingly, count I is dismissed as to District Attorney Walsh. Count II appears to seek a declaration as to the lawfulness of the seizure and forfeiture of the plaintiff's bank account. This is a matter as to which a state judge has already ruled; count II therefore appears to be a claim in the nature of an appeal from that ruling. As such it is not cognizable in this court. Count II also is dismissed. The clerk shall enter a judgment dismissing this action. (Lindsay, Reginald) (Entered: 10/25/2005)
10/26/2005	<u>15</u>	Judge Reginald C. Lindsay : ORDER entered. JUDGMENT in favor of defendants against plaintiff(Hourihan, Lisa) (Entered: 10/26/2005)
10/31/2005	<u>16</u>	Judge Reginald C. Lindsay : ORDER entered. AMENDED JUDGMENT in favor of defendants against plaintiff(Hourihan, Lisa) (Entered: 10/31/2005)

		10/31/2005)
11/30/2005		NOTICE OF APPEAL by Maria Alves. \$ 255 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 12/20/2005. (York, Steve) (Entered: 12/02/2005)